

PART 2000 - GENERAL

Subpart GGG - Memorandum of Understanding (MOU) between the United States
Department of Agriculture (USDA) and the United States
Department of Housing and Urban Development (HUD)

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PART 2000 - GENERAL

Subpart GGG - Memorandum of Understanding (MOU) between the United States Department of Agriculture (USDA) and the United States Department of Housing and Urban Development (HUD)

§ 2000.2901 Purpose.

The purpose of this Instruction is to define the role of USDA, acting through Rural Development (hereinafter referred to as USDA) for the implementation of policies and procedures in accordance with the MOU (see Exhibit A) in effect between USDA and HUD. This Instruction will provide guidance in coordinating the investigation, conciliation or mediation, and resolution of fair housing complaints.

§ 2000.2902 Scope.

(a) Coverage provided by the Fair Housing Act (the "Act"). This Instruction describes how USDA will respond to allegations of housing discrimination which, if true, violate the Act. The Act explicitly prohibits denial of housing, or of a housing related service, or the provision of inferior terms and conditions of housing or of a housing related service because of race, color, religion, sex, national origin, familial status, or handicap. These prohibitions have been interpreted to apply to a wide range of housing transactions. Some examples of situations in which the Act applies are listed below:

(1) Making discriminatory statements, including advertising. The Act prohibits the making, printing, or publishing of statements or advertisements which indicate a limitation, discrimination or preference based on race, color, religion, sex, national origin, familial status, or handicap.

(2) The denial of housing-related financing. The Act prohibits the denial of housing-related financing because of the race, color, religion, sex, national origin, familial status, or handicap of the individual seeking financing or any person associated with that individual. The denial of housing-related financing because of the predominate race or national origin in the surrounding neighborhood is also prohibited.

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(3) The denial of housing-related insurance . The denial of mortgage, homeowners, or other housing-related insurance based on the race, color, religion, sex, national origin, familial status, or handicap of the applicant or any person associated with the applicant is prohibited. The denial of mortgage, homeowner's, or housing-related insurance based upon the race, color, religion, national origin, familial status, or handicap status of persons residing in the neighborhood surrounding the affected property is also prohibited.

(4) The provision of inferior maintenance and repair services . The Act prohibits the provision of inferior maintenance and repair services based on the race, color, religion sex, national origin, familial status, or handicap of the person requesting the service or of the majority of residents of a particular building or development.

(5) Sexual or racial harassment . The Act prohibits making housing, or the receipt of housing-related privileges, conditional upon the granting of sexual favors. The Act also prohibits the creation of a hostile environment based upon sex by the use of sexually-oriented language or by engaging in sexually-oriented behavior which is unwelcome and offensive. The Act also prohibits harassment of a person because of race or national origin.

(6) Reasonable accommodations . The Act requires that housing providers make reasonable accommodations in policies and procedures which are necessary to allow a person with a disability fair housing opportunity. The Act also requires that housing providers allow reasonable modifications to dwelling units which are necessary because of an individual's handicap. **Note:** Under its authority under section 504 of the Rehabilitation Act of 1973 ("Section 504"), USDA must ensure that recipients of federal financial assistance provide reasonable accommodations.

(7) Zoning and land use . The Act prohibits municipalities from adopting or implementing zoning and land use ordinances which are intended to prevent construction of housing likely to attract a particular racial or ethnic group into a community. The Act prohibits the adoption or implementation of land use ordinances which have the effect of denying housing to a particular racial or ethnic group. The Act prohibits municipalities from refusing to make a necessary and reasonable accommodation to the disability of home-seekers where the requested accommodation is a zoning variance or a conditional use permit.

§ 2000.2902(a) (Con.)

(8) Steering. The Act prohibits "steering," which is defined as referring home seekers to residences in a particular neighborhood or development based upon their protected class status. For example, if a Realtor showed Hispanic home buyers only available houses in Hispanic neighborhoods and did not make the Realtor's clients aware of other suitable and affordable homes available in non-Hispanic neighborhoods, the Realtor would be "steering" clients.

(b) USDA programs covered. This Instruction applies to processing discrimination complaints **involving housing financed in whole or part through third parties e.g.,** borrowers or recipients, of USDA funds by Rural Development of the USDA, including, but not limited to, the programs below:

- Multi-Family Housing
- Rental Assistance
- Community Facilities
- Community Fire Protection
- Supervision and Technical Assistance
- Farm Labor Housing
- Housing Site Development
- Housing Preservation
- Water and Waste Disposal
- Intermediary Relending
- Rural Development Loan Fund
- Business and Industry Direct Loans
- Rural Business Enterprise Grants

(c) Type of complaints covered. This Instruction applies to complaints which are processed only as violations of title VIII of the Act ("Title VIII"), as well as those processed both as potential violations of Title VIII, title VI of the Civil Rights Act of 1964 ("Title VI"), Section 504, and the Age Discrimination Act of 1975.

(d) Stages of complaint processing covered. This Instruction applies to each stage of complaint processing, from receipt of the complainant's statement and establishment of jurisdiction, conduct of the investigation, conciliation negotiations and through the issuance of a determination or other closure of the complaint.

(e) Allegations of discrimination by USDA not covered. This Instruction does not apply to allegations that the USDA has violated the Act. This situation will be addressed in separate guidance.

§ 2000.2903 Implementation .

(a) HUD's responsibility . The Act assigns HUD primary responsibility for enforcing the non-criminal sections of the Act, and sole responsibility for making determinations, after investigation, of whether there is reasonable cause to believe that the Act has been violated. HUD's responsibilities include:

- (1) Investigating allegations of housing discrimination;
- (2) Attempting to conciliate discrimination complaints; and,
- (3) Determining whether or not there is reasonable cause to believe that the Act has been violated.

(b) USDA's responsibility . Under Title VI, Section 504, and the Age Discrimination Act of 1975, USDA is responsible for investigation, conciliation or mediation, and resolution of complaints of discrimination, and for referring unresolved complaints of discrimination to the Department of Justice for appropriate action. As used within this Instruction, all references to Rural Development Civil Rights Staff refer to the staff of the Headquarters Office, in Washington, DC.

(c) Determination of jurisdiction . The initial determination that USDA and HUD have jurisdiction over the particular persons and issues involved in a given complaint is the first step of the process that also includes investigating, conciliating, and resolving fair housing complaints.

§ 2000.2904 Receipt of allegations by USDA .

To the greatest extent possible, USDA staff will determine whether there is apparent jurisdiction under the Act to investigate and resolve a given complaint before forwarding the complaint to HUD.

(a) Description of information to be collected . When USDA receives a claim alleging conduct which, if true, could constitute a violation of the Fair Housing Act, USDA staff will refer it to the appropriate Rural Development State Civil Rights Coordinator or Manager. He or she will interview the complainant to elicit the information necessary for a

§ 2000.2904(a) (Con.)

determination as to whether the complaint is jurisdictional. This information gathering may be accomplished in person, by telephone or facsimile, electronically, or by other appropriate means. The information which must be gathered must answer the following questions:

(1) Who has been harmed by the alleged discrimination?

(i) The identity and address of the aggrieved person or persons must be included. Each person harmed by the alleged discrimination should be named. The list may include minor members of the affected household.

(ii) The complainant must articulate the injury upon which the complaint is based. This injury may be monetary, as in the case of a Realtor who says: "I lost a commission for sale of the house because the sellers would not accept an offer from my Hispanic clients." An injury may also be emotional, as in the case of a woman who says "My landlord put his arms around me and tried to kiss me in front of my children. I was humiliated and my children were upset." Or an injury may involve a loss of housing, as in the case of a man who says "Because the landlord would not allow the ramp we needed after my wife's stroke, we were forced to leave the building where we had lived for twenty years."

(2) Who is responsible for the alleged discrimination?

(i) The name and address of the respondent or respondents, if known or discoverable, must be included. This will be the person or persons who are alleged to have committed the act, or the person in authority to make the decision which are alleged to have harmed the complainant, as well as the owner of the building involved if an agent was acting on the owner's behalf.

(ii) Where complainants have been harmed by acts of violence related to their exercise of fair housing rights and the respondents are unknown, complaints can be accepted, at least initially, as filed against "John Doe".

(3) Where did the alleged discrimination occur? A description and address of the dwelling which was involved must be included. Information about the size and configuration of the dwelling involved in the complaint (i.e., "a side-by-side duplex, a unit in a 200-unit apartment complex, a newly constructed single-family home, etc.), may be critical to determining jurisdiction in the complaint.

(4) What happened that was discriminatory? A concise statement of the allegations, including pertinent facts constituting the alleged discriminatory housing practice.

(5) When did the discrimination occur? Complaints filed under the Act must be filed within one year (365 days) of the alleged discrimination. When a complaint involves a continuing series of related acts of discrimination, the complaint must be filed within one year of the LAST instance of the discriminatory behavior to be timely.

(6) All of the above information must be reduced to writing and attached to any supporting documents provided by the complainant. In addition, information on a contact person (such as a mother, sibling, or friend) who will always know how to reach the complainant should be included.

(b) Communication within USDA by USDA personnel .

(1) The Civil Rights Coordinator or Manager will pass on the information described above through to the Rural Development Civil Rights Staff of USDA, and to USDA's National Office of Civil Rights.

(2) Rural Development Civil Rights Staff will verify that the complaint is jurisdictional and assign a tracking number (such number will conform with the National Office of Civil Rights' Program complaint tracking system).

(c) Communication by USDA with HUD .

(1) Rural Development Civil Rights Staff of USDA is responsible for forwarding materials related to fair housing claims to the appropriate HUD enforcement center (see Exhibit B for addresses and RD Guide Letter 2000-GGG-1 for the letter format). Each packet of materials forwarding an allegation to HUD will include:

§ 2000.2904(c) (Con.)

(i) The complainant's information . Copies of any statements and supporting documents made by the complainant to USDA regarding his or her claim. USDA should maintain its own copy of these materials in the field office for the period during which the complaint is open and under investigation.

(ii) A USDA case number . A tracking number will have been assigned by the Rural Development Civil Rights Staff.

(iii) A copy of the notification letter sent to the complainant .

(2) Concurrent with the forwarding of materials to HUD, Rural Development Civil Rights Staff will notify the appropriate USDA State Civil Rights Coordinator or Manager, through the State Director, that the complaint has been accepted and referred to HUD for investigation.

(d) Communication by USDA with the complainant . Rural Development's Civil Rights Staff will be responsible for notifying the complainant, by certified letter (see RD Guide Letter 2000-GGG-2) that the complaint of discrimination has been forwarded to HUD. Notification letters will:

(1) Include a brief explanation of the complainant's rights under the Act;

(2) Explain that the complaint is being reviewed for investigation by both HUD and USDA;

(3) Report USDA's preliminary determination whether the complaint should be handled solely by HUD or whether, due to the nature of the complaint and applicable law, USDA will investigate the claim or complaint concurrently under its authority under Title VI, or any other relevant authority; and

(4) Include the address and toll-free telephone number of the HUD office which will be responsible for investigating the claim.

§ 2000.2905 Receipt of information by HUD .

(a) When HUD receives a claim of housing discrimination which involves a USDA program . HUD field staff receiving notice of alleged housing discrimination which, if true, would violate the Act, and which involves a program administered by USDA, will:

(1) Follow HUD's normal "Assess" process, collecting the information described in section 2000.2904(a) of this Instruction. Upon conclusion of the Assess process, HUD field staff will determine, in a preliminary fashion, which Federal statutes other than the Act may have been violated by the alleged discrimination.

(2) HUD field staff will assign a tracking number and a filing date to the subject complaint. IMPORTANT: All complaints involving USDA programs will be "flagged" in the "Integrated Title Eight Tracking System" (ITTS). This will be done, effective immediately, by checking a box in the area of the ITTS system where HUD staff had previously noted concurrent processing by State and local agencies. As HUD data tracking systems are upgraded, further information on how to attach a data identification tag to USDA-involved complaints will be provided.

(b) HUD field staff and communication with USDA . Upon receipt of an Act complaint, or upon becoming aware of a possible violation of the Act involving a housing-related program or activity administered by USDA, HUD will:

(1) Forward to Rural Development's Civil Rights Staff, and through that staff to the National Office of Civil Rights of USDA, a copy of the HUD complaint form, with a case number for tracking purposes, and the location, address, and phone number of the HUD enforcement center where the complaint will most likely be investigated. USDA will acknowledge receipt of the referral and provide HUD with similar information utilizing RD Guide Letter 2000-GGG-3.

(2) Advise USDA of other civil rights statutes that may apply. The letter of notification sent by HUD to USDA will include information on other anti-discrimination laws that may apply, including Title VI, Section 504, and the Age Discrimination Act.

(3) Provide USDA with a copy of the notification letter sent to the parties.

§ 2000.2905 (Con.)

(c) HUD's communication with parties to USDA-involved complaints. Within 10 days of determining that the subject matter and parties of the complaint are jurisdictional under the Act, HUD will notify the parties in writing of their rights under the Act, including the right to conciliation. In addition, the notification will explain that the claim or complaint may also be investigated as a violation of other civil rights statutes by USDA.

§ 2000.2906 Conducting investigations .

(a) Filing dates .

(1) Regardless of which Department serves as first point of contact for the complainant, the filing date for Act complaints will be the day upon which HUD determines that sufficient information has been received.

(2) For purposes of the time limitations to file claims or complaints of housing discrimination under the Act, (42 U.S.C. 3610(a)), such limitation shall be met upon the receipt of a claim or complaint by either Department.

(b) Notification that a housing discrimination complaint has been received and will be investigated by HUD . HUD will promptly acknowledge receipt of complaints referred by USDA. This acknowledgment will provide USDA with the following information:

(1) HUD filing date

(2) HUD case number

(3) The name, address, and telephone number of the investigator and the supervisor responsible for conducting the investigation.

(c) Notification that the investigation will be conducted by a substantially equivalent State or local agency. If a complaint referred to HUD by USDA involves alleged discrimination occurring within a State or municipality recognized by HUD as substantially equivalent, HUD field staff will:

- (1) Refer the complaint according to normal processes;
- (2) Dispatch notification that the complaint is to be investigated by a State or local agency to USDA;
- (3) Provide both an agency and a HUD contact to USDA investigators; and
- (4) Continue to serve as the primary source of information to USDA about cases being processed by state and local agencies.

(d) Information sharing in furthering the investigation.

- (1) HUD and USDA agree to cooperate in the collection of information necessary to determine whether the Act, Title VI, Section 504, or the Age Discrimination Act have been violated. To this end, each HUD field staff will notify the USDA field staff, in a timely fashion, of on-site visits scheduled during the investigation.
- (2) When a fair housing complaint is filed against a participant in a USDA sponsored program, USDA may possess records of on-site visits, tenant certifications, fair housing marketing plans, and compliance reviews which would greatly aid the conduct of a fair housing investigation. Upon request, copies of relevant USDA site documents shall be forwarded to HUD within 7 days. Relevant site documents may include, but are not limited to, compliance reviews, tenant certifications, and fair housing marketing plans.
- (3) In addition, all USDA staff will make themselves available to the greatest extent possible to provide technical assistance on programmatic requirements to HUD fair housing staff.

§ 2000.2906 (Con.)

(e) Conduct of the investigation by USDA staff .

(1) HUD fair housing staff will share with USDA copies of correspondence, summaries from interviews, investigative reports, and other related information subject to relevant privacy provisions.

(2) USDA will notify HUD, in a timely fashion, of plans to go on-site for record review, tenant interviews, and so on, as part of an investigation.

(3) In addition, HUD staff will make themselves available, to the greatest extent possible, to provide technical assistance on the implementation of federal fair housing laws.

§ 2000.2907 Issuing a Determination or a Finding in a USDA-involved Complaint .

(a) Act complaints investigated by HUD . When HUD staff completes an investigation into a USDA-involved fair housing complaint, USDA will be advised of the outcome as follows:

(1) Administrative Closure. If the complaint is closed because the complainant cannot be located, or has withdrawn the claim, or for other administrative reason, HUD will forward a copy of the closure letter sent to the primary complainant to the Rural Development Civil Rights Staff (National Office).

(2) Finding of No Reasonable Cause. If the complaint is closed with a Finding of No Reasonable Cause to believe that the Act has been violated, HUD will provide USDA, with a copy of the Determination issued in the complaint and the Final Analysis and Investigative Report ("FAIR"). These documents will be sent to Rural Development Civil Rights Staff.

(3) Complaints that are Charged. If a charge is issued in the complaint, USDA will be notified immediately, and in advance of party notification, by telephone or facsimile, of the issuance of the charge. HUD will send a copy of the Determination, the Charge of Discrimination, and the FAIR to the Rural Development Civil Rights Staff.

(b) Actions to be taken by USDA after receiving Notification of a Determination or other case closure from HUD .

(1) Upon receiving a copy of the Determination and investigative report from HUD, USDA shall review the documents and other relevant materials, and make a determination, if it has not already done so, as to whether it will proceed with its own investigation or decision under the appropriate civil rights provisions (Title VI, Section 504, and/or the Age Discrimination Act).

(2) USDA shall notify HUD, the complainant, and the respondents whether it is pursuing a concurrent investigation within two weeks of making its decision. USDA shall provide HUD with a copy of the preliminary investigation report within two weeks of filing the report with the USDA Office of Civil Rights. USDA shall provide HUD, the complainants, and the respondents with a copy of the findings within two weeks of receipt of the final decision.

(c) Complaints investigated by USDA .

(1) When the USDA concludes its inquiry into allegations of discrimination filed under Title VI, Section 504, or the Age Discrimination Act, USDA will notify HUD of the outcome.

(2) The Notification of Findings will be issued by USDA's Rural Development Civil Rights Staff and will be mailed directly to the HUD Enforcement Center responsible for the region in which the alleged discrimination occurred.

(d) Enforcement after issuance of a Charge and/or of findings of non-compliance .

(1) HUD will cooperate in preparing for legal proceedings intended to enforce the Act, Title VI, Section 504, and the Age Discrimination Act. USDA will cooperate in providing testimony by all its relevant staff or officials regarding the operation of programs or activities administered by USDA, and assistance in preparing evidence relevant to the operations of such programs and activities. HUD agrees to cooperate in providing testimony by its staff or officials in USDA proceedings, and to assist in preparing evidence relevant to such proceedings.

§ 2000.2907(d) (Con.)

(2) It is recognized that the ability of HUD and USDA to share information may be limited by legal considerations, including but not limited to the Privacy Act, applicable privileges, federal law, court orders, or special confidentiality agreements. In such cases, the parties will confer for the purpose of determining what information can be made available without compromising restrictions on the availability of such information. To the greatest extent possible, HUD and USDA will cooperate in investigating complaints of housing discrimination.

§ 2000.2908 Conciliation of USDA-involved complaints .

(a) Conciliation of Fair Housing Act cases by HUD . HUD staff, and, when appropriate, staff of substantially equivalent State and local agencies, will provide opportunities for conciliation to the parties as required by statute during the investigation of USDA-involved complaints. During the conciliation process, HUD will rely upon USDA staff for technical assistance in crafting remedies that may impact on the implementation of USDA programs.

(1) In general, conciliation agreements shall be drafted by HUD and signed by the parties and by the Secretary of HUD's designee representing the public interest.

(2) When the proposed remedy has an affect on USDA's implementation of a given program, USDA staff will be involved in crafting the remedy and the Secretary of Agriculture's designee will be a signatory to the agreement.

(b) Conciliation of cases involving violations of the Act and non-compliance with regulatory requirements . HUD and USDA agree to cooperate in resolving complaints which, if true, would violate both the Act, and Title VI, Section 504, or the Age Discrimination Act.

(1) If a complainant or respondent in an Act case or complaint handled by HUD seeks to resolve any allegations of discrimination pending before USDA under Title VI, Section 504, or the Age Discrimination Act, HUD shall consult with USDA as to the terms in a conciliation, mediation , or settlement agreement.

(2) If a complainant or respondent in a case or complaint handled by USDA under Title VI, Section 504, or the Age Discrimination Act, seeks to resolve any claim or complaint, or allegation of discrimination also pending before HUD under the Act, USDA shall consult with HUD as to the terms of the conciliation, mediation, or settlement agreement.

(c) HUD not to resolve Title VI, Section 504, or Age Discrimination non-compliance. No allegation of discrimination pending before USDA under Title VI, Section 504, or the Age Discrimination Act, which is also pending before HUD pursuant to the Act, may be resolved by HUD as to Title VI, Section 504, or the Age Discrimination Act, without the express consent of the Under Secretary for Rural Development or the Under Secretary's designee. However, HUD may conciliate cases or settle complaints under the Act involving allegations of discrimination by a participant in a program or activity assisted by USDA without the express consent of USDA.

(d) Notification of settlement. USDA and HUD will each notify the other of any action taken regarding matters described in this section within 14 calendar days after such action is taken.

(1) When HUD seeks to notify USDA of a settlement, the notification will be sent by HUD's field enforcement staff to the Rural Development Civil Rights Staff.

(2) When USDA seeks to notify HUD of a settlement, the notification will be sent by the Rural Development Civil Rights Staff to the appropriate field enforcement center for HUD.

§ 2000.2909 Monitoring.

(a) Monitoring open cases and case disposition. Effective immediately:

(1) HUD personnel will begin tracking ("flagging") USDA-involved complaints in the ITTS as described at § 2000.2905(a)(2) of this Instruction.

(2) Upon request of the Assistant Secretary for Fair Housing, HUD will provide the USDA with computer generated reports on the USDA-involved cases presently under investigation by HUD. Such reports will include:

§ 2000.2909(b) (Con.)

- (i) The names and addresses of the leading complainant and the leading respondent.
- (ii) The HUD case number;
- (iii) The status; and,
- (iv) The date the complaint was filed.

(b) Monitoring conciliated settlements . Monitoring conciliated agreements resolving Title VIII complaints will be conducted by HUD field enforcement staff. Allegations that a conciliation agreement has been breached will be investigated by HUD field enforcement staff. A brief report of evidence supportive of the allegation of breach will be prepared and forwarded to HUD Headquarters and to the Rural Development Civil Rights Staff (the Civil Rights Staff will inform the USDA Office of Civil Rights). HUD Headquarters will review the evidence and, if appropriate, refer the matter to the U.S. Department of Justice for enforcement.

(c) Monitoring program progress . HUD and USDA will meet, not less than annually, to discuss the operation of the MOU, make recommendations for improvements, and clarify the status of particular investigations.

§ 2000.2910 Training .

HUD and USDA will cooperate in staff training on the Act, relevant activities related to housing or urban development, and on the operation of USDA programs.

§ 2000.2911 Interpretations .

(a) USDA questions . Any questions within USDA concerning this Instruction should be directed to the Program Compliance Chief of the National Office Civil Rights Staff at (202) 690-9810 (Voice), (202)-690-9809 (TTY), or (202)-690-9803 (FAX).

(b) HUD questions . Any questions within HUD should be directed to Director, Office of Enforcement, the Office of Fair Housing and Equal Opportunity at (202) 708-0836.

§§ 2000.2912 - 2000.2950 [Reserved]

Attachments: Exhibits A and B.

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. DEPARTMENT OF AGRICULTURE
AND THE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

1. Purpose

This agreement between the United States Department of Agriculture (USDA) and the United States Department of Housing and Urban Development (HUD) defines procedures to coordinate the investigation and resolution of complaints alleging violations of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 -3619)).

It is recognized that HUD is responsible under law for enforcing the Fair Housing Act. In so doing, HUD is required to investigate allegations of housing discrimination, attempt conciliation of fair housing complaints, and determine whether there is reasonable cause to believe discrimination has occurred under the Act. Upon finding reasonable cause, HUD must bring the case before an administrative law judge, or if any party elects to have claims or complaints decided in a civil action, HUD must refer the complaint to the Department of Justice for prosecution in U.S. District Court.

Further, it is recognized that USDA is required by Section 808 of the Fair Housing Act and Executive Order 12892 to administer its programs and activities relating to housing and urban development in a manner affirmatively to further fair housing. In addition, it is recognized that USDA, under Title VI of the Civil Rights Act of 1964 (Title VI), the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973, is responsible for ensuring that recipients of federal financial assistance through USDA do not discriminate. In so doing, USDA is required to investigate and conciliate complaints of discrimination and to refer unresolved complaints of discrimination to the U.S. Attorney General for appropriate action.

2. Scope

The scope of this MOU is limited to complaints of alleged discrimination asserting a violation of the Fair Housing Act that are filed against participants in housing-related programs and activities administered by USDA.

For the purposes of this memorandum, the term "complaint" shall be used as it is currently defined by both HUD and USDA in their respective regulations. In the case of USDA, the term covers both formal and informal complaints; for HUD, it covers both claims or complaints and complaints.

This memorandum does not cover complaints alleging that USDA has violated the Fair Housing Act. The disposition of such complaints will be addressed at a future date in a separate Memorandum of Understanding.

3. Affirmatively furthering fair housing.

In accordance with section 808(d) and (e) of the Fair Housing Act and Executive Order 12892, the Department of Agriculture affirms its commitment to administer its programs and activities related to housing and urban development in a manner affirmatively to further fair housing. USDA shall make affirmative efforts to ensure that participants in housing-related programs and activities do not discriminate in the sale or rental of housing or in the provision of housing-related services in violation of the Fair Housing Act. If USDA finds that discrimination in the sale or rental of housing or in the provision of housing-related services has occurred in its programs or activities, USDA shall take action, to the fullest extent permitted by law, to remedy the effects of such discrimination.

In addition, USDA shall make affirmative efforts to overcome the effects of conditions that resulted in limiting participation by persons protected by the Fair Housing Act in its programs related to housing and urban development.

To implement this section, USDA will undertake a review of its programs and activities related to housing or urban development, all relevant practices and procedures, and its related regulations, handbooks, and other written guidance materials, and revise them as necessary. The review will also seek to identify and eliminate impediments to fair housing choice that may be found in the design or operation of USDA programs. Upon request by USDA, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will provide technical assistance in such a review and suggest appropriate revisions.

Furthermore, USDA agrees to train its program administration staff regarding nondiscrimination in the sale or rental of housing and the provision of housing-related services and affirmatively furthering fair housing requirements. HUD/FHEO will assist in such training upon request.

4. Receipt of Claims or Complaints of Alleged Discrimination - USDA as Initial Contact

When USDA receives a claim or complaint alleging conduct which, if true, would constitute a violation of the Fair Housing Act, the parties shall proceed as follows. (As used herein, "upon receipt" shall normally mean within two weeks.)

(A) Upon receipt of the allegation, USDA shall:

1) Forward a copy to the HUD Fair Housing Enforcement Center in the region where the alleged discrimination took place. Each allegation shall be accompanied by a USDA case number for tracking purposes, a copy of the letter sent to the complainant pursuant to (2) below, and an initial determination by USDA as to whether the complaint should be handled solely by HUD or whether, due to the nature of the complaint and the applicable law(s), USDA will investigate the claim or complaint concurrently under its authority under Title VI or any other relevant authority.

2) Mail a letter to the complainant notifying him or her that the allegation has been forwarded to HUD, explaining what his or her rights are under the Fair Housing Act, and explaining that the complaint is being reviewed for investigation by both HUD and USDA. The letter shall also:

(a) State that USDA and HUD may share copies of correspondence, summaries from interviews, investigative reports, and other related information, subject to the provisions of Section 7 of this Memorandum.

(b) Include information on the other anti-discrimination laws that may apply, including Title VI, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973.

(c) Indicate that the complaint may be investigated by HUD and/or USDA, separately or jointly, depending on the nature of the complaint and the applicable law.

(B) After receiving an allegation referred by USDA, HUD shall:

1) Send a letter of acknowledgment to USDA that includes, but is not limited to, the HUD case number assigned to the claim or complaint, and the location, address, and telephone number of the office where the claim or complaint will most likely be investigated.

2) Within 10 days, attempt to contact the complainant to begin the development of a complaint that can be accepted by HUD for further investigation.

3) Upon determining that it has jurisdiction over the complaint, draft and file a complaint. HUD will notify the complainant in writing of his or her rights under the Fair Housing Act.

4) Within 10 days of determining that it has jurisdiction over the complaint, notify the respondent in writing of his or her rights under the Fair Housing Act, including HUD's jurisdiction, and that the claim or complaint may also be investigated as a violation of other civil rights statutes by USDA.

5. Receipt of Allegations of Discrimination -- HUD as Initial Contact

When HUD receives a claim or complaint alleging conduct that, if true, would constitute a violation of the Fair Housing Act, or upon HUD's becoming aware that such alleged conduct involves a housing-related program or activity administered by USDA, the parties shall proceed as follows:

(A) Upon receipt of a Fair Housing Act claim or complaint or upon becoming aware of a possible violation of the Fair Housing Act involving a housing-related program or activity administered by USDA, HUD shall:

1) Forward to USDA a copy of the allegations made, with a case number for tracking purposes, and the location, address, and phone number of the HUD Fair Housing Enforcement Center where the complaint will most likely be investigated.

2) Within 10 days of receiving the claim or complaint, attempt to contact the complainant to begin the process of determining whether a claim or complaint or inquiry is jurisdictional.

3) Upon determining that it has jurisdiction over the complaint, draft and file a complaint. HUD will notify the complainant in writing of his or her rights under the Fair Housing Act, including HUD's jurisdiction, and inform the complainant that the claim or complaint may also be investigated as a violation of other civil rights statutes by USDA. The letter shall also:

(a) State that USDA and HUD may share copies of correspondence, summaries from interviews, investigative reports, and other related information, subject to Section 7 of this Memorandum.

(b) Include information on other anti-discrimination laws that may apply including Title VI, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

4) Within 10 days of determining that it has jurisdiction over the complaint, HUD will notify the respondent in writing of his or her rights under the Fair Housing Act, including HUD's jurisdiction, and that the claim or complaint may also be investigated as a violation of other civil rights statutes by USDA.

(B) Upon receipt of a copy of a claim or complaint referred by HUD, USDA shall send a letter of acknowledgment to HUD that will include the case number assigned to the complaint by USDA; the location, address, and phone number of the USDA office where the complaint would most likely be investigated; and an initial determination as to whether, due to the nature of the claim or complaint, USDA will investigate the claim or complaint concurrently under its own authority or will investigate jointly with HUD.

6. Response to Official Notice from Either HUD or USDA

(A) At any time that USDA or HUD closes a complaint subject to this agreement, the department closing the complaint will notify the other department, the complainant, and the respondent.

(B) Upon request, each department shall send a copy of any materials subject to this Memorandum to the other department, subject to the provisions of Part 7, below.

7. Sharing of Documents

(A) Except as provided in (D), copies of all communications from complainants, respondents, and witnesses (or potential witnesses) and letters from each department to such persons shall be shared by the departments during a joint investigation or upon request when joint investigations are not underway. Such a request may be prospective.

(B) Copies of relevant USDA site documents shall be forwarded to HUD within 7 days of a request for such documents. Relevant site documents shall include, but not be limited to, compliance reviews, tenant certifications, and fair housing marketing plans.

(C) USDA and HUD agree to cooperate in preparing for legal proceedings intended to enforce the Fair Housing Act, Title VI, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973. USDA agrees to cooperate in providing testimony by its staff or officials regarding the operations of programs or activities administered by USDA and assistance in preparing evidence relevant to the operations of such programs and activities. HUD agrees to cooperate in providing testimony by its staff or officials in USDA proceedings and to assist in preparing evidence relevant to such proceedings.

(D) It is recognized that the ability of HUD and USDA to share information may be limited by legal considerations, including but not limited to the Privacy Act, applicable privileges, federal law, court order, or special confidentiality agreements. In such cases, the parties will confer for the purpose of determining what information can be made available without compromising restrictions on the availability of such information.

8. Joint Investigations

To the greatest extent possible, HUD and USDA shall cooperate in the conduct of investigations involving alleged discrimination under the Fair Housing Act. HUD shall coordinate any joint investigation. At a minimum, such cooperation shall include:

(A) Timely notice to the other department of any site visit;

(B) Consultation with the other department regarding approaches to the investigation;

(C) Forwarding to the other department a copy of the accepted complaint, together with notes from the interviews conducted in the development of the complaint and preliminary investigation, subject to the provisions of Part 7, above; and,

(D) Technical assistance on how USDA programs and activities operate.

9. Conciliation, Informal Resolution, and Sanctions

(A) HUD and USDA agree to cooperate in the resolution of complaints which, if true, would violate both the Fair Housing Act and Title VI of the 1964 Civil Rights Act, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975.

(B) If a complainant or respondent in a Fair Housing Act case or complaint handled by HUD seeks to resolve any allegations of discrimination pending before USDA under Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, HUD shall consult with USDA as to whether such terms can be included in a conciliation or settlement agreement, and if so, what the terms should be.

(C) If a complainant or respondent in a case or complaint handled by USDA under Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, seeks to resolve any claim or complaint or allegation of discrimination also pending before HUD under the Fair Housing Act, USDA shall consult with HUD as to whether such terms can be included in a conciliation or settlement agreement, and if so, what the terms should be.

(D) No allegation of discrimination pending before USDA under Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, which is also pending before HUD pursuant to the Fair Housing Act, may be resolved by HUD as to Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, without the express consent of USDA.

However, HUD may conciliate cases or settle complaints under the Fair Housing Act involving allegations of discrimination by a participant in a program or activity assisted by USDA without the express consent of USDA.

(E) USDA and HUD shall each notify the other of any action taken regarding matters described in this section within two weeks of such action.

10. Closings, Determinations, and Final Decisions

(A) Each party agrees to notify the other of:

- 1) The date and the reason that a complaint is closed;
- 2) Any determination that the Fair Housing Act, Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, has or has not been violated, including copies of any documents on which that determination was based, to the extent available under the law and subject to the provisions of Part 7, above;
- 3) Any referral of a claim or complaint by either department to the Department of Justice or other federal enforcement body or election by the complainant or respondent in a Fair Housing Act case to have the charges adjudicated in U.S. District Court;
- 4) The issuance of a final decision after an administrative hearing or trial before a U.S. District Court; and,
- 5) Any other matters concerning the closure of a complaint or relating to the reasonable cause determination, including conciliation or settlement of the complaint or the imposition of sanctions, as set forth in Part 9, above.

(B) HUD shall forward to USDA any determination that the Fair Housing Act has or has not been violated within two weeks of making such determination. HUD shall attach the Final Investigative Report.

(C) After receiving a copy of the determination and investigative report from HUD, USDA shall review the documents and other relevant materials and make a determination, if it has not already done so, as to whether it will proceed with its own investigation under the civil rights provisions cited in Section 1 of this agreement.

(D) USDA shall notify HUD, the complainant, and the respondents whether it is pursuing a concurrent investigation within two weeks of making its decision. USDA shall provide HUD, the complainants, and the respondents with a copy of the preliminary investigation report within two weeks of filing the report with the USDA civil rights office.

11. Monitoring

(A) HUD and USDA shall each maintain a cumulative list of complaints involving housing-related programs and activities administered by USDA, including:

- 1) The name of the complainant
- 2) The address and phone number of the complainant
- 3) The case number of the complaint
- 4) The status of the complaint
- 5) The location, name and phone number of the staff person responsible for complaint.

(B) HUD and USDA shall meet not less than annually to discuss the operation of the MOU, make recommendations for improvements, and clarify the status of particular investigations.

12. Training

HUD and USDA shall cooperate in staff training on the Fair Housing Act, relevant activities related to housing or urban development, and on the operation of USDA programs.

13. Implementation

(A) This MOU becomes effective 90 days from the date of the last signature on the document.

(B) Prior to the effective date, HUD and USDA shall develop internal procedures for implementation, including approval of standard letters for use by each party and guidelines for any joint investigations. A complete and final copy of those procedures shall be forwarded to the other party not less than 30 day prior to the effective date of this MOU.

(C) The parties agree to confer on the interpretation and application of the memorandum as necessary and to conduct jointly an annual review of its operation.

(D) Nothing in this MOU shall be construed to impair HUD's authority to enforce the Fair Housing Act.

(E) Nothing in this MOU shall be construed to impair USDA's authority to enforce Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975.

/s/_____
DAN GLICKMAN
Secretary of Agriculture

/s/_____
ANDREW CUOMO
Secretary of Housing
And Urban Development

Note: This MOU was signed by both Secretaries on July 11, 1997.

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U.S. Department of Housing and Urban Development (HUD)
Fair Housing Enforcement Centers

ADDRESS

JURISDICTION

HUD - Fair Housing and Equal Opportunity
Boston Federal Office Building
10 Causeway Street, Room 375
Boston, Massachusetts 02222-1092
Commercial (617) 565-5236 FAX (617) 565-6558
Toll Free (800) 827-5005 TTY (617) 565-5453

NEW ENGLAND
(CT, ME, MA, NH, RI, VT)

HUD - Fair Housing and Equal Opportunity
26 Federal Plaza
New York, New York 10278-0068
Commercial (212) 264-8068 FAX (212) 264-3068
Toll Free (800) 496-4294 TTY (212) 264-0927

NEW YORK/NEW JERSEY
(NY, NJ)

HUD - Fair Housing and Equal Opportunity
The Wanamaker Building
100 Pennsylvania Square, East
Philadelphia, Pennsylvania 19107-3380
Commercial (215) 656-0606 FAX (215) 656-3445
Toll Free (800) 799-2085 TTY (215) 656-3450

MID ATLANTIC
(DE, DC, MD, PA, VA, WV)

HUD - Fair Housing and Equal Opportunity
Richard B. Russell Federal Building
75 Spring Street, SW
Atlanta, Georgia 30303-3388
Commercial (404) 331-5136 FAX (404) 730-2365
Toll Free (800) 440-8091 TTY (404) 730-2654

SOUTHEAST/CARIBBEAN
(AL, FL, GA, KY, TN, MS,
NC, SC and the Caribbean)

HUD - Fair Housing and Equal Opportunity
Ralph Metcalfe Federal Building
77 West Jackson Boulevard
Chicago, Illinois 60604-3507
Commercial (312) 353-5680 FAX (312) 886-2729
Toll Free (800) 765-9372 TTY (312) 353-7143

MIDWEST
(OH, MI, IL, IN, MN, WI)

ADDRESS

HUD - Fair Housing and Equal Opportunity
1600 Throckmorton
P.O. Box 2905
Fort Worth, Texas 76113-2905
Commercial (817) 978-9000 FAX (817) 978-9011
Toll Free (800) 498-9371 TTY (817) 978-9274

HUD - Fair Housing and Equal Opportunity
400 State Avenue, Room 200
Kansas City, Kansas 66101-2406
Commercial (913) 551-5462 FAX (913) 551-5469
Toll Free (800) 743-5323 TTY (913) 551-6972

HUD - Fair Housing and Equal Opportunity
633 17th Street, FITN
Denver, Colorado 80202-3607
Commercial (303) 672-5440 FAX (303) 672-5004
Toll Free (800) 877-7353 TTY 672-5248

HUD - Fair Housing and Equal Opportunity
450 Golden Gate Avenue
P.O. Box 36003
San Francisco, California 94102-3448
Commercial (415) 436-6532 FAX (415) 436-6446
Toll Free (800) 347-3739 TTY (415) 436-6594

HUD - Fair Housing and Equal Opportunity
909 First Avenue, Suite 200
Seattle, Washington 98104-1000
Commercial (206) 220-5101 FAX (206) 220-5108
Toll Free (800) 877-0246 TTY (206) 220-5185

JURISDICTION

SOUTHWEST
(AR, TX, LA, NM, OK)

GREAT PLAINS
(IA, KS, NE, MO)

ROCKY MOUNTAIN
(CO, MT, ND, SD, UT, WY)

PACIFIC/HAWAII
(AZ, CA, HI, NV)

NORTHWEST/ALASKA
(AK, ID, OR, WA)